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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,186	11/10/2003	Michael J.G. Gleissner	6378P002	4657
8791	7590	05/21/2004	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD, SEVENTH FLOOR LOS ANGELES, CA 90025			SOTOMAYOR, JOHN	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/705,186

Applicant(s)

GLEISSNER ET AL.

Examiner

John L. Sotomayor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-94 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-19 and 86, drawn to a method for presenting the text of words within a vocal recording, classified in class 434, subclass 307A.
- II. Claims 20-32, 85 and 92-94, drawn to a method for modifying a media presentation, classified in class 725, subclass 32.
- III. Claims 33-50 and 88, drawn to a method for presenting text and information drawn from a database, classified in class 707, subclass 102.
- IV. Claims 51-68 and 89, drawn to a method of presenting content to a user to facilitate language learning, classified in class 434, subclass 156.
- V. Claims 69-84, 87 and 90-91, drawn to a method for modifying database links and words for playback of content to users, classified in class 704, subclass 270.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III, IV and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable.

In the instant case, invention I has separate utility such as a plurality of training and entertainment devices, including computers and Karaoke machines, provide the ability to present digital content on a display screen at the same time as a vocal recording, and providing a link

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between the text of a word and a segment of the recording is a proper means for tracking position within a digital recording. This method does not require the methods recited in inventions II-V to function, and is therefore a separate invention.

In the instant case, invention II has separate utility such as the method recited in the claims of invention II provide a means for editing video and audio segments according to a user specification to produce optimized content for delivery to a user. This method may be employed in a plurality of platforms such as digital editing equipment or personal computer home studio programs. This method does not require the methods recited in inventions I or III-V to function and is therefore a separate invention.

In the instant case, invention III has separate utility such as the method recited in the claims builds and modifies a database containing text and information about the text to be delivered in cooperation with digital content. This method may be employed by a plurality of platforms to create the database, such as a personal computer or a digital editing package. This method does not require the methods recited in inventions I-II or VI-V to function and is therefore a separate invention.

In the instant case, invention IV has separate utility such as providing a methodology for tracking and adjusting the form of assistance given to a user to facilitate language learning. The method may be employed by a plurality of platforms, such as handheld language learning devices, PDAs, or personal computers. This method does not require the methods recited in inventions I-III or V to function and is therefore a separate invention.

In the instant case, invention V has separate utility such as providing the data processing capability to access and modify playback of original content according to words in the database.

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The method may be employed by a plurality of platforms, such as personal computers or specialized content delivery systems. This method does not require the methods recited in inventions I-IV to function and is therefore a separate invention. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Michael Gleissner on May 18, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 703-305-4558. The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jls  
May 18, 2004



JESSICA HARRISON  
PRIMARY EXAMINER